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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,974	06/30/2003	Ginette Serrero	27600-00014-US7	6971
30678 7590 12/02/2008 CONNOLLY BOVE LODGE & HUTZ LLP 1875 EYE STREET, N.W. SUITE 1100 WASHINGTON, DC 20006				
EXAMINER				
GIBBS, TERRA C				
ART UNIT		PAPER NUMBER		
1635				
MAIL DATE		DELIVERY MODE		
12/02/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/607,974

**Applicant(s)**

SERRERO, GINETTE

**Examiner**

TERRA C. GIBBS

**Art Unit**

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 July 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 28-37 and 39 is/are pending in the application.  
4a) Of the above claim(s) 40 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 28-37 and 39 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date July 15, 2008  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office Action is a response to Applicant's Amendment and Remarks filed July 15, 2008.

Claims 28-37, 39, and 40 are pending in the instant application.

Claims 28, 30, 31, and 33-35 have been amended.

This application contains claim 40 drawn to an invention nonelected without traverse in the reply filed on May 11, 2007. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144). See MPEP § 821.01.

Claims 28-37 and 39 have been examined on the merits.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Information Disclosure Statement***

Applicant's information disclosure statement filed July 15, 2008 is acknowledged. The submission is in compliance with the provisions of 37 CFR §1.97. Accordingly, the Examiner has considered the information disclosure statement, and a signed copy is enclosed herewith.

### ***Double Patenting***

In the previous Office Action mailed April 10, 2008, claims 28-37 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable

over claims 5-7 and 10 of U.S. Patent No. 6,670,183 ('183). **This rejection is maintained** for the reasons of record set forth in the previous Office Action mailed April 10, 2008.

### ***Response to Arguments***

In response to this rejection, Applicants request that this rejection be held in abeyance until the claims are otherwise in a condition for allowance. This request has been considered and it is noted that that this rejection will be held in abeyance until the claims are otherwise in condition for allowance.

### ***Claim Rejections - 35 USC § 112***

In the previous Office Action mailed April 10, 2008, claims 28-37 and 39 were rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a method of inhibiting the growth of a tumor cell or a method of inhibiting the protein expression of 88kDa glycoprotein growth factor (GP88) in a cell, comprising the subcutaneous injection of a GP88 antisense oligonucleotide targeted to SEQ ID NO:16, using primer pairs SEQ ID NO:12 and SEQ ID NO:14, wherein said antisense inhibits the growth of the tumor cell or inhibits the protein expression of GP88, does not reasonably provide enablement for a method of inhibiting the growth of a tumor cell or a method of inhibiting the protein expression of GP88 in a cell, comprising any route of administration of any antisense targeted to GP88, wherein said antisense inhibits the

growth of the tumor cell or inhibits the protein expression of GP88. **This rejection is withdrawn** in view of Applicant's Amendment and Remarks filed July 15, 2008. Specifically, the Examiner is withdrawing this rejection in view of Applicant's Remarks that:

1. It was well known in the art, at the time of filing of the instant application, that antisense oligonucleotides have the capacity to inhibit gene expression *in vivo* (see Applicant's reference CYYY, CZZ, and CAAAA on the Information Disclosure Statement filed July 15, 2008).
2. One of ordinary skill in the art would not have to perform undue experimentation to select those antisense oligonucleotides that carry out the functionality of the instant claims (see Applicant's reference CXXX on the Information Disclosure Statement filed July 15, 2008).
3. It is entirely routine in the art to perform experimentation to identify suitable antisense molecules that function in the methods as claimed (see Applicant's reference CYYY and CWWW on the Information Disclosure Statement filed July 15, 2008, and Brysch et al., made of record as reference CJJ on Applicant's IDS filed August 14, 2003).
4. Regarding delivery, those skill in the art understand that delivery of antisense oligonucleotide *in vivo* would not require undue experimentation (see Applicant's reference CVVV and CXXX on the Information Disclosure Statement filed July 15, 2008, and Brysch et al., made of record as reference CJJ on Applicant's IDS filed August 14, 2003).

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terra C. Gibbs whose telephone number is 571-272-0758. The examiner can normally be reached on 9 am - 5 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James "Doug" Schultz can be reached on 571-272-0763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

November 20, 2008

/Terra Cotta Gibbs/

/Sean R McGarry/

Primary Examiner, Art Unit 1635

**Application Number****Application/Control No.**

10/607,974

**Applicant(s)/Patent under  
Reexamination**

SERRERO, GINETTE

**Examiner**

TERRA C. GIBBS

**Art Unit**

1635